

**REMARKS/ARGUMENTS**

The claims have been amended by rewriting independent claims 1, 13, 22, 25 and 29 and dependent claim 23 and canceling dependent claim 11. Applicant hereby requests reconsideration of the application, in view of these amendments to the claims and the remarks which follow.

Claims 1-29 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. More specifically, the Examiner requests clarification of "air bubble shaped" and "a bubble side" in these claims. Examiner will appreciate that Applicant has amended the claims to clarify that the air bubble shaped closed cellular material is defined by "a flat surface adapted to carry a plurality of air chambers such that said air bubble shaped closed cellular material comprises a flat side and a raised air bubble side."

Claims 1-29 further stand rejected under 35 U.S.C. §§102(b) and 103(a) as being anticipated or unpatentable over Tricca et al., Kolsky, and Small references. Nevertheless, none of these references, as also noted by the Examiner, teach a mat having a combination of bubble layers and polyethylene foam layers dimensioned such that they form a truncated pyramidal shape. Moreover, the Examiner correctly notes that "changes such as shape may impart patentability to a product if the particular shape claimed produces a new and unexpected result which is different in kind and not merely in degree from the results of the prior art." *Citing In re Dailey et al.*, 149 USPQ47 (CCPA 1996), last paragraph of Page 5 of Examiner's Office Action.


In accordance with Dailey, Applicant specifically teaches that "the mat may be constructed by centering smaller layers on top of larger layers to create a gradual elevation (pyramiding effect)." Paragraph 16. Applicant particularly notes that the purpose for such construction is to reduce the potential tripping hazard associated with walking and working on a slightly elevated work space. Id. This is especially important and highly desirable in the intended use of the preferred embodiment in the surgical setting. Id. Once again, the Examiner

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notes that none of the references teach this construction. Accordingly, it will be appreciated that Applicant has amended the claims to more distinctly claim "a mat having a combination of bubble layers and polyethylene foam layers dimensioned such that they form a truncated pyramidal shape." Applicant therefore respectfully requests reconsideration and withdrawal of the 35 U.S.C. §§102(b) and 103(a) rejections and allowance of all claims.

Favorable consideration of this Response and allowance of all claims are respectfully requested.

Respectfully submitted,  
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